IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

GERALD D. STOVER,)
Plaintiff,))
v.) Case No. 2:08-cv-02310-PWG
SHERIFF TODD ENTREKIN, et al.,)
Defendants.))

MEMORANDUM OF OPINION

The Magistrate Judge filed a Report and Recommendation on May 19, 2010, recommending that: (1) Defendants Hayes, Greene, Hartley, Morgan, and Neal's motion for summary judgment as to Plaintiff's Fourteenth Amendment substantive due process claim for deliberate indifference to his life and personal security be granted; (2) Defendants Hartley, Morgan, and Neal's motion for summary judgment as to Plaintiff's Fourth Amendment claim for excessive force be denied¹; and (3) Defendants Hartley, Morgan, and Neal's motion for summary judgment as to Plaintiff's Fourth Amendment claim for excessive force on the basis of qualified immunity be denied. The parties were allowed fifteen days in which to file written objections to the Magistrate Judge's Recommendations. No objections were filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the Report and Recommendation, the court is of the opinion that the Magistrate Judge's Report is due to be and is hereby **ADOPTED** and the Magistrate Judge's Recommendation is **ACCEPTED**.

¹ Plaintiff's Complaint cannot be read as stating a Fourth Amendment excessive force claim against either Defendant Hayes or Defendant Green.

The court **EXPRESSLY FINDS** as follows:

1. There are no genuine issues of material fact as to Plaintiff's Fourteenth Amendment

substantive due process claim against the defendants. Therefore, Defendants Hayes, Greene, Hartley,

Morgan, and Neal's motion for summary judgment is due to be granted and Plaintiff's Fourteenth

Amendment substantive due process claim against these defendants is due to be dismissed with

prejudice;

2. There are genuine issues of material fact as to Plaintiff's Fourth Amendment

excessive force claim against Defendants Hartley, Morgan, and Neal. Therefore, their motion for

summary judgment on this claim is due to be denied; and

3. Defendants Hartley, Morgan, and Neal's motion for summary judgment as to

Plaintiff's Fourth Amendment excessive force claim on the basis of qualified immunity is due to be

denied.

An appropriate order will be entered.

DONE and **ORDERED** this 16th day of June, 2010.

R. DAVID PROCTOR

UNITED STATES DISTRICT JUDGE

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